

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CR 19-0137 RB

MARIO REYNOSO,

Defendant.

ORDER DENYING MOTION TO APPOINT COUNSEL

This matter is before the Court on Mario Reynoso’s Motion to Appoint Counsel. (Doc. 132.) Reynoso was convicted after a jury trial of distributing 5 grams and more of methamphetamine in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B). (*See* Doc. 97.) The Court sentenced Reynoso to 280 months imprisonment on September 1, 2020. (Doc. 116.) Reynoso appealed, and the Tenth Circuit affirmed the judgment. (*See* Doc. 128-1.) Reynoso filed a petition for writ of certiorari on April 18, 2022, which the United States Supreme Court denied on June 6, 2022. (*See* Docs. 129–30.) The Supreme Court later denied a petition for rehearing. (*See* Doc. 131.)

Reynoso now seeks counsel to assist him in filing a petition for writ of certiorari. (*See id.*) Specifically, he moves:

for an ORDER appointing CJA counsel pursuant to the Criminal Justice Act 18 U.S.C.S § 3006A or an ORDER compelling CJA counsel of the record to comply with his duties . . . by filing either a Writ of Certiorari Petition on Petitioner’s behalf or file a Motion to Withdraw from representation . . . so Petitioner can file a Pro Se motion on his own behalf.

(Doc. 132 at 1.) “Review by the Supreme Court is discretionary, and the Supreme Court has held that defendants have no right to counsel to pursue discretionary review.” *United States v. Thomas*,

33 F. App'x 446, 448 (10th Cir. 2002) (citing *Ross v. Moffitt*, 417 U.S. 600, 616–17 (1974); *Wainwright v. Torna*, 455 U.S. 586, 587 (1982)); *see also* *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987) (the “right to appointed counsel extends to the first appeal of right, and no further”). Thus, Reynoso’s appointed CJA counsel was not required to file a petition for writ of certiorari on Reynoso’s behalf, nor was he required to file a motion to withdraw at the conclusion of the appeal.

In sum, the Court declines to appoint counsel to assist Reynoso in filing a second, untimely petition for writ of certiorari or to grant him any other requested relief.

IT IS ORDERED that Reynoso’s Motion to Appoint Counsel (Doc. 132) is **DENIED**.



ROBERT C. BRACK
SENIOR U.S. DISTRICT JUDGE